

AMENDED IN ASSEMBLY MAY 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2582

Introduced by Assembly Member Maienschein

February 19, 2016

An act to add *and repeal* Sections 17053.75 and 23675-~~to~~ of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2582, as amended, Maienschein. Income taxes: credit: employees with disabilities.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill, for taxable years beginning on and after January 1, 2017, *and before January 1, 2022*, would allow a credit under those laws to an employer who pays a qualified employee a wage equal to or exceeding the state minimum wage during the taxable year, as provided. The bill would define a qualified employee as an individual with a disability who may be paid a special minimum wage under existing state or federal law. The credit would be allowed in an amount equal to the difference between the special minimum wage and the state minimum wage, multiplied by the hours worked by the qualified employee. *The bill would require the Franchise Tax Board to submit a report containing specified data relating to these credits to the Legislature by June 1, 2022.*

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17053.75 is added to the Revenue and Taxation Code, to read:

17053.75. (a) For taxable years beginning on or after January 1, 2017, *and before January 1, 2022*, there shall be allowed a credit against the “net tax,” as defined by Section 17039, to a qualified employer who pays a qualified employee a wage that equals or exceeds the state minimum wage during the taxable year.

(b) The credit shall be in an amount that is equal to the difference between the special minimum wage that may be paid to the qualified employee and the state minimum wage, multiplied by the number of hours worked by the qualified employee for the qualified employer during the taxable year.

(c) For purposes of this section, the following definitions shall apply:

(1) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(2) “Qualified employee” means an individual who may be paid a special minimum wage pursuant to Section 214(c) of Title 29 of the United States Code or Section 1191 or 1191.5 of the Labor Code. ~~Code that is subject to withholding pursuant to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.~~

(3) (A) “Qualified employer” means a taxpayer that employs a qualified employee in this state.

(B) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified employer under this section shall be made at the entity level, and any credit under this section or Section 23675 shall be allowed to the pass-thru entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this section, the term “pass-thru entity” means any partnership or “S” Corporation.

(d) A qualified employer shall do both of the following:

(1) Obtain from the Industrial Welfare Commission a certification that a qualified employee meets the eligibility requirements of paragraph (2) of subdivision (c). The certification

1 shall include the dollar amount of special minimum wage
2 applicable to each qualified employee.

3 (2) Retain the certification and provide a copy of it upon request
4 to the Franchise Tax Board.

5 (e) The Franchise Tax Board may prescribe rules, guidelines,
6 or procedures necessary or appropriate to carry out the purposes
7 of this section. Chapter 3.5 (commencing with Section 11340) of
8 Part 1 of Division 3 of Title 2 of the Government Code does not
9 apply to any standard, criterion, procedure, determination, rule,
10 notice, or guideline established or issued by the Franchise Tax
11 Board pursuant to this section.

12 (f) *In the case where any credit allowed by this section exceeds*
13 *the net "tax," the excess may be carried over to reduce the "net*
14 *tax" in the following year, and succeeding years if necessary, until*
15 *this section is repealed.*

16 (g) *On or before June 1, 2022, the Franchise Tax Board shall*
17 *submit a report to the Legislature in compliance with Section 9795*
18 *of the Government Code that contains the following:*

19 (1) *The number of Californians with developmental disabilities*
20 *employed during each year of the operative period of this section*
21 *and Section 23675.*

22 (2) *The number of employers who used and applied for a credit*
23 *authorized by this section and Section 23675 each year.*

24 (3) *The number of employees for whom a credit authorized by*
25 *this section and Section 23675 was claimed.*

26 (h) *This section shall remain in effect only until December 1,*
27 *2022, and as of that date is repealed.*

28 SEC. 2. Section 23675 is added to the Revenue and Taxation
29 Code, to read:

30 23675. (a) For taxable years beginning on or after January 1,
31 2017, and before January 1, 2022, there shall be allowed a credit
32 against the "tax," as defined by Section 23036, to a qualified
33 employer who pays a qualified employee a wage that equals or
34 exceeds the state minimum wage during the taxable year.

35 (b) The credit shall be in an amount that is equal to the
36 difference between the special minimum wage that may be paid
37 to the qualified employee and the state minimum wage, multiplied
38 by the number of hours worked by the qualified employee for the
39 qualified employer during the taxable year.

(c) For purposes of this section, the following definitions shall apply:

(1) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(2) “Qualified employee” means an individual who may be paid a special minimum wage pursuant to Section 214(c) of Title 29 of the United States Code or Section 1191 or 1191.5 of the Labor Code. *Code that is subject to withholding pursuant to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.*

(3) (A) “Qualified employer” means a taxpayer that employs a qualified employee in this state.

(B) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level, and any credit under this section or Section 17053.75 shall be allowed to the pass-thru entity and passed through to the partners in accordance with applicable provisions of this part or Part 10 (commencing with Section 17001). For purposes of this subparagraph, the term “pass-thru entity” means any partnership.

(d) A qualified employer shall do both of the following:

(1) Obtain from the Industrial Welfare Commission a certification that a qualified employee meets the eligibility requirements of paragraph (2) of subdivision (c). The certification shall include the dollar amount of special minimum wage applicable to each qualified employee.

(2) Retain the certification and provide a copy of it upon request to the Franchise Tax Board.

(e) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this section.

(f) *In the case where any credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in*

1 *the following year, and succeeding years if necessary, until this*
2 *section is repealed.*

3 *(g) On or before June 1, 2022, the Franchise Tax Board shall*
4 *submit a report to the Legislature in compliance with Section 9795*
5 *of the Government Code that contains the following:*

6 *(1) The number of Californians with developmental disabilities*
7 *employed during each year of the operative period of this section*
8 *and Section 17053.75.*

9 *(2) The number of employers who used and applied for a credit*
10 *authorized by this section and Section 17053.75 each year.*

11 *(3) The number of employees for whom a credit authorized by*
12 *this section and Section 17053.75 was claimed.*

13 *(h) This section shall remain in effect only until December 1,*
14 *2022, and as of that date is repealed.*

15 SEC. 3. It is the intent of the Legislature to enact legislation
16 to comply with the requirements of Section ~~41~~. *41 of the Revenue*
17 *and Taxation Code.*

18 SEC. 4. This act provides for a tax levy within the meaning of
19 Article IV of the *California* Constitution and shall go into
20 immediate effect.